

Appeal Brief

1. Patent law and patent practice are used to encourage and protect applicants' inventions. These encouragement and protection must not affect the already existing inventions and patents.

Section 22(4) of Taiwan Patent Law mentions that even the invention complies with Sec. 22(1), if those skilled in the art could have easily obtained the invention based on the prior art, the invention is still not patentable. For other words, if the invention can be easily achieved by those skilled in the art with a reasonable prediction of the development in the technique, it does not comply with requirement of inventiveness. Therefore, the invention is not patentable.

The Patent I229650 owned by Sharp Kabushiki Kaisha and Sydek Corporation was filed on November 18, 2003. It claims the foreign application priority date as 2002/11/19 and 2003/05/12. The patent application was granted and published on March 21, 2005. However, the techniques disclosed in the application have been found obvious to those skilled in the art or as well-known technologies. Thus, this invention does not comply with the requirement of inventiveness. Therefore, the appellant filed the invalidity appeal and requested to invalidate the patent.

2. According to Patent I229650, "Substrate accommodating tray" (please refer to attachments 1 and 2 and hereafter it is called "the patent asserted to be invalidated"), claim 19 recites

"a substrate accommodating tray for accommodating a substrate, the substrate accommodating tray comprising:

a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other; and

a plate-like support element provided in an area surrounded by the frame for supporting the substrate."

In cited reference 1, Taiwan Patent No. 472760, "Structure Improvement of Tray for Placing Polarization Plate" (please refer to attachments 3 and 4), with patent publication date January 11, 2002, claim 1 recites

"1. Structure Improvement of Tray for Placing Polarization Plate, characterized by:

said tray having a rectangular plane structure with a predetermined size, said tray being used for a ripening process of the Polarization Plate with the predetermined size, frames of the tray having a plurality of hollow portions and a plurality of supporting poles, said frames having a structure similar as a picket fence object and providing good effect of air flow; a removal aid apparatus is located at each corner of the tray to improve the efficiency for piling up the trays."

Cited reference 1 discloses an accommodating tray for supporting polarization plates. According to cited reference 1 and the well-known techniques, the cubic accommodating tray in cited reference 1 includes a rectangular frame and a rectangular bottom plate. Therefore, "a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other" in claim 19 in the patent asserted to be invalidated corresponds to the rectangular frame in cited reference 1 and "a plate-like support element provided in an area surrounded by the frame for supporting the substrate" in claim 19 in the patent asserted to be invalidated corresponds to a rectangular bottom plate in cited reference 1.

Also according to cited reference 2: Taiwan Patent No 444754, "Improved IC product tray" with patent publication date July 1, 2001 (please refer to Attachments 5 and 6), cited reference 2 discloses that:

Accommodating tray (10) is configured as square and the edge of the top surface has protruding lines as an outer frame (11), inside the protruding lines of the outer frame (11), there are a plurality of vertical and horizontal lines with an equal interval (12). These lines (12) divide the top surface area of the accommodating tray (10) into a plurality of accommodating spaces (13) such that these accommodating spaces (13) are arranged in an array. Each accommodating space (13) includes a slot (14) and a hole (15) in the middle of the slot. The hole (15) has a horizontally protruding edge on the top opening. According to the above-mentioned description, cited reference 2 also describes a substrate accommodating tray in square including an outer frame. Inside the outer frame, a plurality of lines with an equal interval forms a plurality of accommodating spaces. Each line becomes the frame of each accommodating space. Each accommodating space includes a slot and each slot has a protruding

portion to support IC. The hole in the slot provides a space for the tin drops on the IC. As described in the patent asserted to be invalidated, "a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other" in claim 19 corresponds to the outer frame or lines with an equal interval and "a plate-like support element provided in an area surrounded by the frame for supporting the substrate" in claim 19 corresponds to the protruding edge in cited reference 2.

Furthermore, according to cited reference 3: Taiwan patent 519972, "Improved structure for substrate accommodating tray" (please refer to Attachments 7 and 8), Patent publication date Feb 1, 2003, claim 1 recites

"1. an improved structure for substrate accommodating tray comprising:

a rectangular cubic structure capable of accommodating a plurality of substrates, including:

a bottom plate having a rectangular plane structure and having a diagonal slot being provided with an appropriate width, said bottom plate supporting said substrate; and

a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other, said frame and said bottom plate being connected together."

The invention in cited reference 3 is an accommodating tray for IC substrates, including a frame and a bottom plate. The bottom plate is a plate-like object and is surrounded by and connected with the frame. It is obvious that in the patent asserted to be invalidated, "a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other" in claim 19 is almost the same as "a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other, said frame and said bottom plate being connected together" in claim 1 of cited reference 3 and "a plate-like support element provided in an area surrounded by the frame for supporting the substrate" in claim 19 corresponds to "a bottom plate having a rectangular plane structure and having a diagonal slot being provided with an appropriate width, said bottom plate supporting said substrate" in claim 1 of cited reference 3.

According to the above-mentioned description, it is a well-known technology to use a frame (a frame or outer frame) and a plate-like support element provided in an area surrounded by the frame in any accommodating applications. Therefore, the invention defined by claim 19 in the patent asserted to be invalidated is not inventive either in structure or application.

3. Claim 20 in the patent asserted to be invalidated recites:

"a substrate accommodating tray according to claim 19, wherein the support element has a plurality of openings respectively provided in the vicinity of a plurality of corners of the frame"

In the patent asserted to be invalidated, the function of "a plurality of openings" is described as "the support element 51 has a square opening portion 51a at each of four corners and a center thereof. The support element 51 also has a square opening portion 51a at the center of four sides thereof. These nine opening portions 51a are provided for receiving removing pins. The removing pins are inserted into the opening portions 51a for raising the glass substrate 20 placed on the support element 51 and removing the glass substrate 20 from the substrate accommodating tray 50"

Therefore, it is obvious that the "plurality of openings" in claim 20 in the patent asserted to be invalidated is used to remove the glass substrate from the substrate accommodating tray.

Claim 1 in cited reference 3 recites:

"1. an improved structure for substrate accommodating tray comprising:
a rectangular cubic structure capable of accommodating a plurality of substrates, including:
a bottom plate having a rectangular plane structure and having a diagonal slot being provided with an appropriate width, said bottom plate supporting said substrate; and
a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other, said frame and said bottom plate being connected together."

The function of "a diagonal slot" in cited reference 3 is described as:

"the slot 211 is opened diagonally. Thus in the case where substrates 50 are provided in the first direction 61 and the second direction 62, when an operator applied a force so as to contact the substrate 50 via the slot 211, it is possible to retrieve the substrate 50."

According to the above-mentioned description, it is recognized that the function of the diagonal slot in claim 1 of cited reference 3 is used to retrieve the substrates.

Therefore, the methods and functions of the openings in claim 20 of the patent asserted to be invalidated and the diagonal slot in claim 1 of cited reference 3 are very similar. Thus, the invention defined by claim 20 of the patent asserted to be invalidated does not comply with the requirement of inventiveness.

4. Claims 21 and 22 in the patent asserted to be invalidated recited:

[claim 21] a substrate accommodating tray according to claim 19, wherein the support element contains a foamed synthetic resin.

[claim 22] a substrate accommodating tray according to claim 19, wherein the frame contains aluminum.

According to the description in claims 21 and 22, the invention defined by the independent claim 19 further uses material of foamed synthetic resin and aluminum. Since independent claim 19 has already been asserted to be unpatentable in Reason 2 in this appeal brief and both foamed synthetic resin and aluminum are well-known materials, inventions defined by claims 21 and 22 are both not inventive.

5. Claims 23-25 in the patent asserted to be invalidated recite:

[claim 23] a substrate accommodating tray according to claim 19, further comprising:

at least one reinforcing member for reinforcing the support element, the at least one reinforcing member being provided in the support element between the pair of first frame portions.

[claim 24] a substrate accommodating tray according to claim 23, wherein the at least one reinforcing member is

provided in the support element so as not to be exposed to an upper surface of the support element.

[claim 25] a substrate accommodating tray according to claim 23, wherein the at least one reinforcing member includes an aluminum pipe.

According to the specification of the patent asserted to be invalidated, the reinforcing member in above-mentioned claims is used to improve the rigidity of the plate-like support element. However, in Mechanical Engineering it is a well-known technique to use reinforcing elements to improve the strength and rigidity of the plate-like support element. Therefore, the invention defined by claim 23 does not comply with the requirement of inventiveness. Claim 24 in the patent asserted to be invalidated only discloses the position of the reinforcing element relative to the plate-like support element and claim 25 merely describes the material and property of the reinforcing element. Therefore, the inventions defined by claims 24 and 25 are not inventive.

6. Claim 1 in the patent asserted to be invalidated recites:

"a substrate accommodating tray for accommodating a substrate, the substrate accommodating tray comprising:
a frame including a pair of first frame portions facing each other and a pair of second frame portions facing each other;
a plate-like support element provided in an area surrounded by the frame for supporting the substrate, the support element having a first opening provided between the pair of first frame portions; and
at least one support member provided along the first opening between the pair of first frame portions for supporting the support element."

This structure is very similar with the one disclosed by cited reference 3. The invention of cited reference 3 includes a bottom plate with a rectangular surface and a frame also with a rectangular surface. The bottom plate has a diagonal slot. Compared with the frame, the plate-like support element and the first opening described in claim 1 of the patent asserted to be invalidated, the inventions in cited reference 3 and the patent asserted to be invalidated are very similar in their structures and functions. Since the support element in the patent

asserted to be invalidated only connects to two sides of the frame, the strength and rigidity of the support element between the first and second openings is reduced and the support element is not strong enough to support the substrate. Thus the structure requires a support member. As shown in Figure 3a in cited reference 3, four sides of the bottom in cited reference 3 are respectively connected to the four sides of the frame body, and since the portion of the diagonal slot in the bottom which is most adjacent to the frame body has a distance d to the frame body, the bottom having the distance d can be considered as a support element. Therefore, the inventions defined by claim 1 in the patent asserted to be invalidated and in cited reference 3 are very similar in their structures and functions. Furthermore, if the two divided portions of plate-like support element separated by the first opening can be connected in the patent asserted to be invalidated, a support member is no longer required. According to the aforementioned description, the invention defined by claim 1 in the patent asserted to be invalidated does not comply with the requirement of inventiveness. For the same reason, claim 3 in the patent asserted to be invalidated is also not inventive.

[claim 3] A substrate accommodating tray according to claim 1, wherein the support element has a second opening provided between the pair of second frame portions.

7. Claim 2 in the patent asserted to be invalidated recites:

"a substrate accommodating tray according to claim 1, wherein the at least one support member is provided so as not to project over an upper surface of the support element"

Claim 2 only describes the position of the support member relative to the support element. As already discussed in Reason 6 in this appeal brief, since the invention defined by independent claim 1 does not comply with the requirement of inventiveness, the invention defined by claim 2 is also not inventive.

Claims 4 and 5 in the patent asserted to be invalidated recite:

[claim 4] a substrate accommodating tray according to claim 1, wherein the support element contains a foamed synthetic resin.

[claim 5] a substrate accommodating tray according to claim 1, wherein the frame and the at least one support member each contain aluminum.

Claims 4 and 5 only describe the material of the support element, the frame and the support member. Therefore, the inventions defined by claim 4 and claim 5 do not comply with the requirement of inventiveness.

8. Claim 6 in the patent asserted to be invalidated recites:

[claim 6] a substrate accommodating tray according to claim 1, further comprising:

at least one reinforcing member for reinforcing the support element, the at least one reinforcing member being provided in the support element between the pair of first frame portions.

For the same reasons as in Reason 5 in this appeal brief, the invention defined by claim 6 in the patent asserted to be invalidated is not inventive.

Claim 7 and claim 8 in the patent asserted to be invalidated recite:

[claim 7] a substrate accommodating tray according to claim 6, wherein the at least one reinforcing member is provided in the support element so as not to be exposed to an upper surface of the support element.

[claim 8] a substrate accommodating tray according to claim 6, wherein the at least one reinforcing member includes an aluminum pipe.

For the same reason as described in Reason 5, the inventions defined by claim 7 and 8 are not inventive.

9. According to the aforementioned Reasons 2-8, the patent asserted to be invalidated is not inventive and does not comply with Sec 22(4) of Taiwan Patent Law.

Attachments:

Attachment 1: Patent publication which is asserted to be invalidated, Patent No. I229650

Attachment 2: Specification Publication of the patent asserted to be invalidated, Patent No. I229650

Attachment 3: Patent publication of cited reference 1, Patent No. 472760

Attachment 4: Specification Publication of cited reference 1, Patent No. 472760

Attachment 5: Patent publication of cited reference 2, Patent No. 444754

Attachment 6: Specification Publication of cited reference 2, Patent No. 444754

Attachment 7: Patent publication of cited reference 3, Patent No. 519972

Attachment 8: Specification Publication of cited reference 3, Patent No. 519972

正本

檔	號
保存年限	

經濟部智慧財產局 函

機關地址：台北市辛亥路2段185號3樓

聯絡人：譚秀珍
聯絡電話：(02)23767215
傳真：(02)23779875105 雙掛號
臺北市松山區敦化北路201號7樓

SI1308/CT2299(89502) LKL

請按依交檔案彙整

受文者：夏普股份有限公司等（代理人：陳長文 先生）

註別：日文

發文日期：中華民國95年4月7日
發文文號：(95)智專一(二)15079字第
09540623950號連別：普通
密等及解密條件或保密期限：
附件：如文

種類	DEF	DEFEX	INT	AAI	RA
期限	5/8				
延展	6/5	種類			
期限		期限			

主旨：檢送第092132295N01號專利舉發案相關資料，請依法答辯。
說明：

- 一、依陳震宇先生95年3月10日到局之專利舉發申請書辦理。
- 二、本案請於文到次日起1個月內提出答辯書同式4份（含證據資料）送局憑辦，逾限則依現有資料逕予審查。
- 三、檢附舉發申請書副本1份及證據0件、附件8件。

正本：夏普股份有限公司、賽得克股份有限公司（代理人：陳長文 先生）
副本：陳震宇 先生（代理人：王雲平 先生、謝宗穎 先生）

局長 蔡 練 生

依照分層負責規定
授權單位主管決行

Time: 2006/05/10 14 5:35

(此處由本局於收
文時黏貼條碼)

專利舉發申請書

(本申請書格式、順序及粗體字，請勿任意更動，※記號部分請勿填寫)

被舉發案案號：92132295 ※案由：15000 事務所或申請人案件編號：
(可免填)

申請日期：95.03.10 專利證書號數：I229650

一、被舉發案名稱：

基板承接托盤

二、申請人(舉發人)：(共 1 人)

姓名或名稱：(中文/英文)(簽章) ID：F122889289

陳震宇

☐ 指定 為應受送達人

代表人：(中文/英文)(簽章)

住居所或營業所地址：(中文/英文)

台北縣汐止市秀峰路 84 號 3 樓

國籍：(中文/英文) 中華民國

電話/傳真/手機：

E-MAIL：

三、被舉發人：(共 2 人)

姓名或名稱：

(1)日商夏普股份有限公司

(2)日商賽得克股份有限公司

住居所或營業所地址：

(1)日本國大阪府大阪市阿倍野區長池町 22 番 22 號

(2)日本國宮城縣仙台市若林區卸町 5 丁目 6 番 2 號

國籍：(1)(2)日本

四、專利代理人：

姓 名：(蓋章) ID : B100474100、S120836691

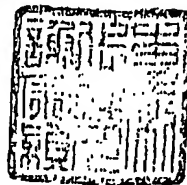
王雲平 律師、謝宗穎 律師

證書字號：台代字第 1651、4833 號

地址：台北市敦化南路 2 段 71 號 18 樓

聯絡電話及分機：(02)27036633-501

E-MAIL：



五、規費：新台幣 壹萬 元整。

(發明每件新台幣一萬元、新型每件新台幣九千元、新式樣每件新台幣八千元。)

六、附送書件：

☒ 1、申請書一式四份。

☐ 2、委任書一份。

☒ 3、舉發理由書一式四份。

☒ 4、證據：共 8 件

書證原本 8 件；樣品 件。

專利舉發理由書

一、專利制度之施行及專利權之授與，係為鼓勵及保護申請人之發明創作，惟此種鼓勵與保護必須在未剝奪既存社會公眾利益前提下，方符合專利法之實質意義。因為專利法係極具獨佔性及排他性之專利製造、販賣及使用之權，倘若有專利權人因違反專利法之規定獲取專利，並且在同業間主張其瑕疵專利權，將對社會公眾利益及同業經營秩序產生極大的危害，不僅有違反主管機關維護社會正義的原則，亦與專利制度施行宗旨不符。故專利權之給予不可不慎，申請專利之新型如有違反專利法之規定者，即便核准，亦當撤銷其專利權，以維持法律之公平、公正。

中華民國專利法第二十二條第四項「發明雖無第一項所列情事，但為其所屬技術領域中具有通常知識者依申請前之先前技術所能輕易完成時，仍不得依本法申請取得發明專利。」也就是說，申請專利之發明，若熟知該項技術者能輕易預期之一般性技術發展，或能以先前技術輕易完成，即不符合「進步性」要件，不得准予專利。

緣「日商夏普股份有限公司」與「日商賽得克股份有限公司」所申請之中華民國發明專利證書號 I 2 2 9 6 5 0 之「基板承接托盤」專利申請案係於民國 9 2 年 1 1 月 1 8 日提出申請（申請案號第 9 2 1 3 2 2 9 5 號），其所主張之國外優先權日為民國 9 1 年 1 1 月 1 9 日及民國 9 2 年 5 月 1 2 日，嗣經 鈞局審定

准予專利，並公告於民國94年3月21日。惟該案之技術內容於申請前已有與該案相同或相似之技術內容公開，其所屬技術領域中具有通常知識者能依先公開之技術內容輕易完成該案之技術內容，顯然違反專利法第二十二條第四項的規定，不具有「進步性」；為避免不當專利權損害社會公益，舉發人爰依法檢附證據提出舉發，請求撤銷該發明專利，並追繳證書，以資適法。

二、茲查，專利證書號I 229650「基板承接托盤」之發明專利案（請參閱附件一與附件二，以下稱被舉發案）之申請專利範圍第19項：

「19、一種用以承接基板之基板承接托盤，該基板承接托盤包括：
一框架，包括一對相對之第一框架部分及一對相對之第二框架部分；及
一板狀支撐元件，設置在框架圍繞隻區域中用以支撐該基板。」

為在被舉發案申請前已被公開之技術，如引證案一：中華民國專利公告編號第472760號之新型專利申請案「可供偏光板置放之托盤結構改良」（請參閱附件三與附件四），其公告日為中華民國91年1月11日，引證案一之申請專利範圍第1項為：

「1、一種可供偏光板置放之托盤結構改良，其特徵則在於：

該托盤係呈現一預定大小之矩形盤體，可供預定大小之偏光板成品置此熱成，而該托盤之四周側

面則設成鏤空面，並設具複數根之支撐柱，形成側周邊為欄柵狀，俾以提供良好之通風效果；而另在該托盤之四周則分設一扣塊裝置，據此，可供堆疊且提昇工作效益者。」

引證案一所述及之托盤係用以承載偏光板，因此參照該引證案一之說明書內容以及公眾的認知，引證案一所述及之矩形盤體，可認定其為具有一矩形邊框及一矩形之平面底板。因此，被舉發案之申請專利範圍第19項所述及之「一框架，包括一對相對之第一框架部分及一對相對之第二框架部分」即可對應於引證案一所述之矩形盤體之矩形邊框，被舉發案之申請專利範圍第19項所述及之「一板狀支撐元件，設置在框架圍繞之區域中用以支撐該基板」即可對應於引證案一所述及之矩形盤體的矩形之平面底板。

另外，如引證案二：中華民國專利公告編號第444754號之新型專利「改良型IC產品承載盤」（請參閱附件五及附件六），其公告日為中華民國90年7月1日，引證案二所承認之先前技術（第六圖及第七圖）為：

「承載盤（10）係外型為規格尺寸大小之方形盤體，其頂面的周邊形成有突出的外框條（11），外框條（11）內部則佈設有多數成縱橫排列的間隔條（12），使各間隔條（12）將承載盤（10）的頂面區隔成多數整齊排列的容置空間（13），而各容置空間（13）內均具有一淺槽（14），淺槽（14）中央形成有穿孔（15），並使穿孔（15）的頂端口內周

緣突伸形成有跨置凸緣(16)。」上述可知引證案二之承載盤也是一方形盤體，其具有一外框，外框內部的多數縱橫排列的間隔條進一步形成多數容置空間，而間隔條則成為每個容置空間的外框，各容置空間均有一淺槽，而淺槽內有跨置凸緣以承載IC，淺槽內的穿孔則提供容置IC的錫球。同樣的，被舉發案之申請專利範圍第19項所述及之「一框架，包括一對相對之第一框架部分及一對相對之第二框架部分」即可對應於引證案二所述之外框或間隔條，被舉發案之申請專利範圍第19項所述及之「一板狀支撐元件，設置在框架圍繞之區域中用以支撐該基板」與引證案二所述及之跨置凸緣具有相同的功能。

再者，如引證案三：中華民國專利公告編號第519972號之新型專利「基板置料盒之改良構造」(請參閱附件七及附件八)，其公告日為中華民國92年2月1日，引證案三之申請專利範圍第1項為：

「1、一種基板置料盒之改良構造，其係包括有：

一本體，其係為矩形立體結構，可提供複數個基板置放，該本體其係設有：

一底面，其係為矩形平面結構，該底面係開設有適當寬度之一斜向開槽，該底面其係可提供承載該基板；以及

一框體，其係具有二組相對應之一第一框面以及一第二框面，該框體係與該底面相連接。

」

引證案三是一種置放IC基板的承載裝置，其包含一

Time: 2006/05/10 14:53:35

框體及一底面，而底面呈現平板狀且設置在框體所圍繞的區域內，並且與框體連接。很明顯的，被舉發案之申請專利範圍第19項所述及之「一框架，包括一對相對之第一框架部分及一對相對之第二框架部分」與引證案三之申請專利範圍第1項所述及之「一框體，其係具有二組相對應之一第一框面以及一第二框面，該框體係與該底面相連接」幾乎是相同的，且被舉發案之申請專利範圍第19項所述及之「一板狀支撐元件，設置在框架圍繞之區域中用以支撐該基板」可對應於引證案三之申請專利範圍第1項所述及之「一底面，其係為矩形平面結構，該底面係開設有適當寬度之一斜向開槽，該底面其係可提供承載該基板」。

由上述可知，利用一框架（框體或外框）以及設置在框架所圍繞的區域內之板狀支撐元件，在任何領域的承載技術中，皆為公眾所熟知之技術。由此可知，被舉發案之申請專利範圍第19項，無論是結構上或是用途上，皆不具有「進步性」。

三、被舉發案之申請專利範圍第20項

「20、如申請專利範圍第19項之基板承接托盤，其中該支撐元件具有複數個開口分別設置在該框架之複數角落附近。」

其中「複數個開口」於被舉發案中所述之功能為

「支撐元件51在4個角及中央各有一方形開口部分51a，支撐元件51在其四邊的中央也有一方形開口部分51a，設置這9個開口部分51a用以收納移除銷，移除銷插入開口部分51a以升起支撐元件51上

的玻璃基板 20，及從基板承接托盤 50 移除玻璃基板。」

由此可知，被舉發案之申請專利範圍第 20 項所述之開口，其功能是用以「從基板承接托盤 50 移除玻璃基板」。

引證案三之申請專利範圍第 1 項為：

「1、一種基板置料盒之改良構造，其係包括有：

一本體，其係為矩形立體結構，可提供複數個基板置放，該本體其係設有：

一底面，其係為矩形平面結構，該底面係開設有適當寬度之一斜向開槽，該底面其係可提供承載該基板；以及

一框體，其係具有二組相對應之一第一框面以及一第二框面，該框體係與該底面相連接。

」

其中「一斜向開槽」在引證案三的功能為：

「該底面 21 係開設有適當寬度 W 之一斜向開槽 211，該開槽 211 之二端係分別延伸有一持取孔 212，因此該底面 21 其可提供承載該基板 50 時，由於該開槽 211 係為斜向開設，因此該基板 50 可於一第一方向 61 以及一第二方向 62 置放時，該操作人員皆可藉由該開槽 211 而施力接觸該基板 50，加以持取該基板 50。」

因此可以認為引證案三申請專利範圍第 1 項所述之斜向開槽，其功能係用以「持取該基板」。

所以，被舉發案之申請專利範圍第 20 項所述及之開

口與引證案三之申請專利範圍第1項所述及之斜向開槽，在方法與功能上非常相似。因此，被舉發案之申請專利範圍第20項也不具有「進步性」。

四、被舉發案之申請專利範圍第21項與第22項：

「21、如申請專利範圍第19項之基板承接托盤，其中該支撐元件包含一發泡合成樹脂。

22、如申請專利範圍第19項之基板承接托盤，其中該框架包含鋁。」

就被舉發案說明書中揭載的內容，在其申請專利範圍第21項與第22項所述及之發泡合成樹脂以及鋁，係分別為支撐元件與框架的材料。而本專利舉發理由書之第二點已說明被舉發案之申請專利範圍第19項不具有「進步性」，而且發泡合成樹脂及鋁係公眾熟知的材料，因此被舉發案之申請專利範圍第21項及第22項皆不具有「進步性」。

五、被舉發案之申請專利範圍第23項至第25項：

「23、如申請專利範圍第19項之基板承接托盤，其中基板承接托盤另包括：

至少一強化件，用以強化該支撐元件，該至少一強化件設置在該對第一框架部分間之該支撐元件中。

24、如申請專利範圍第23項之基板承接托盤，其中該至少一強化件設置在該支撐元件中，俾不露出於該支撐元件之上表面。

25、如申請專利範圍第23項之基板承接托盤，其中該至少一強化件包括一鋁管。」

由被舉發案之說明書內容可以得知上述三項申請專利範圍所述及之強化件，係用以增加板狀支撐元件的剛度（剛性），利用強化元件以增加板狀元件的強度在機械工程的領域係為相當習知的技術，因此被舉發案之申請專利範圍第23項不具有「進步性」。被舉發案之申請專利範圍第24項僅是說明強化件相對於板狀支撐元件的位置，另外，被舉發案之申請專利範圍第25項僅是說明強化件之材料與型態，因此被舉發案之申請專利範圍第24項及第25項皆不具「進步性」。

六、被舉發案之申請專利範圍第1項為：

「1、一種用以承接基板之基板承接托盤，該基板承接托盤包括：

一框架，其包括一對相對之第一框架部分及一對相對第二框架部分；

一板狀支撐元件，設置在框架圍繞之區域中用以支撐基板，支撐元件具有設置在該對第一框架部分間之第一開口；及

至少一支撐件，沿著該對第一框架部分間之第一開口設置用以支撐該支撐元件。」

其所揭露之結構與引證案三所揭露之結構極為相似。引證案三「基板置料盒之改良構造」，其本體包括一底面及一框體，該底面為矩形的平面結構，該框體則為矩形的框體，且該底面係有一斜向開槽，相較於被舉發案之框架、板狀支撐元件及第一開口，無論在結構上與功能上皆極為近似。由於被舉發案之板狀支撐元

件（請參閱被舉發案之代表圖示），僅各以二邊與框架連接，使得其內部，也就是與第一開口及第二開口相鄰之二邊的部分，其強度不足，因此需要支撐件支撐。而如引證案三之圖三A所示，引證案三之底面的四邊各分別與框體之四邊連接，而且引證案三底面的斜向開槽與框體最鄰近的部分也與框體有一距離d，因此，也可認為該距離d之底面部分為一種支撐件。由此可知，被舉發案之申請專利範圍第1項，不僅在結構上與引證案三極為相似，而且在功能上也相去不遠。再者，若被舉發案之板狀支撐元件，其被第一開口所切割成的二板狀支撐元件之間能夠相連，則被舉發案便不需支撐件，因此被舉發案之支撐件頗有畫蛇添足之嫌。藉由上述，被舉發案之申請專利範圍第1項不具有「進步性」。同時，被舉發案之申請專利範圍第3項：

「3、如申請專利範圍第1項之基板承接托盤，其中該支撐元件具有設置該對第二框架部分間之第二開口。」

也不具有「進步性」。

七、被舉發案之申請專利範圍第2項：

「2、如申請專利範圍第1項之基板承接托盤，其中設置該至少一支撐件以不凸出於支撐元件之上表面。」

僅是說明該支撐件相對於該支撐元件之位置，如第六點所述之理由，被舉發案之申請專利範圍第1項不具有「進步性」，因此被舉發案之申請專利範圍第2項亦

不具有「進步性」。而被舉發案之申請專利範圍第4項及第5項：

「4、如申請專利範圍第1項之基板承接托盤，其中該支撐元件包含一發泡合成樹脂。

5、如申請專利範圍第1項之基板承接托盤，其中該框架及該至少一支撐件各包含鋁。」

也僅是說明支撐元件、框架及支撐架之材料，基於上述理由，因此被舉發案之申請專利範圍第4項及第5項也不具有「進步性」。

八、同樣地，被舉發案之申請專利範圍第6項：

「6、如申請專利範圍第1項之基板承接托盤，另包括：

至少一強化件，用以強化支撐件，該至少一強化件設置在該對第一框架部分間之支撐元件中。

」

如本專利舉發理由書第五點所述之理由，因此被舉發案之申請專利範圍第6項不具有「進步性」，而且被舉發案之申請專利範圍第7項與第8項：

「7、如申請專利範圍第6項之基板承接托盤，其中該至少一強化件設置在該支撐元件中，俾不露出於支撐元件之上表面。

8、如申請專利範圍第1項之基板承接托盤，其中該至少一強化件包括一鋁管。」

也基於本專利舉發理由書第五點所述之理由，皆不具有「進步性」。

九、基於本專利舉發理由書之第二點至第八點所述之理由

，被舉發案實不具有「進步性」而違反中華民國專利法第二十二條第四項「發明雖無第一項所列情事，但為其所屬技術領域中具有通常知識者依申請前之先前技術所能輕易完成時，仍不得依本法申請取得發明專利。」之規定，舉發人爰依中華民國專利法之規定提起舉發。

謹 呈

經濟部智慧財產局 公鑒

附呈書件：

附件一：係被舉發案中華民國發明專利證書號 I 2 2 9 6
5 0 專利案之公報影本。

附件二：係被舉發案中華民國發明專利證書號 I 2 2 9 6
5 0 專利案之說明書影本。

附件三：係引證案一中華民國專利公告編號第 4 7 2 7 6 號
0 號專利案之公報影本。

附件四：係引證案一中華民國專利公告編號第 4 7 2 7 6
0 號專利案之說明書影本。

附件五：係引證案二中華民國專利公告編號第 4 4 4 7 5 號
4 號專利案之公報影本。

附件六：係引證案二中華民國專利公告編號第 4 4 4 7 5
4 號專利案之說明書影本。

附件七：係引證案三中華民國專利公告編號第 5 1 9 9 7 號
2 號專利案之公報影本。

附件八：係引證案三中華民國專利公告編號第51997
2號專利案之說明書影本。

舉發人：陳震宇

代理人：王雲平 律師

謝宗穎 律師

中 華 民 國 九 十 五 年 三 月 十 日

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☒ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☐ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.